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LLC and Home Depot USA, Inc.*

Additional counsel on signature page

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DS ADVANCED ENTERPRISES, LTD.,
A CORPORATION

Plaintiff,

v.

COOPER LIGHTING, LLC,
LOWE'S HOME CENTERS, LLC,
HOME DEPOT USA, INC.,
AMAZON.COM, INC., and
AMAZON.COM SERVICES LLC,

Defendants.

Case No. 5:23-cv-02603-JAK-SHK

**DEFENDANTS' NON-OPPOSITION
TO PLAINTIFF'S FIRST MOTION
TO AMEND PLAINTIFF'S
INFRINGEMENT CONTENTIONS**

Judge: Hon. John A. Kronstadt
Date: October 21, 2024
Time: 8:30 am
Courtroom: 10C

1 Defendants Cooper Lighting, LLC (“Cooper”), Lowe’s Home Centers, LLC
2 (“Lowe’s”) and Home Depot USA, Inc. (“Home Depot”)(collectively, “Defendants”),
3 hereby provide this statement of Non-Opposition to Plaintiff’s First Motion to Amend
4 Plaintiff’s Infringement Contentions (the “Motion”). Defendants do not oppose the relief
5 requested in Plaintiff’s Motion.

6 However, Defendants provide a brief response to Plaintiff’s Motion to address the
7 following points:

8 *First*, Plaintiff has not provided an explanation for why Plaintiff failed to identify
9 the 4” Halo product as an accused product in its contentions with respect to Lowe’s or
10 why Plaintiff took nearly two and half months to file its motion after discovering the
11 apparent issue.

12 *Second*, during the parties’ meet and confers, Defendants indicated to Plaintiff that
13 they would consider agreeing to Plaintiff’s proposed amendment if Plaintiff also agreed
14 to fix other specifically noted deficiencies in Plaintiff’s infringement contentions.
15 Plaintiff declined to supplement its deficient infringement contentions and instead simply
16 filed its Motion.

17 *Third*, Plaintiff included in its Motion irrelevant accusations regarding Lowe’s
18 discovery responses which are unfounded. The discovery that Plaintiff requested from
19 Lowe’s regarding the unaccused 4” product was not relevant to any claim or defense
20 because it was not directed to an accused product with respect to Lowe’s. Nevertheless,
21 Lowe’s has agreed to provide appropriate supplemental responses now that Plaintiff has
22 moved to amend its contentions, assuming Plaintiff’s Motion is granted.

23 *Fourth*, Plaintiff took the opportunity in its Motion to offhandedly raise another
24 premature discovery dispute regarding signed interrogatory responses. This was a new
25 discovery issue raised for the first time by Plaintiff one day before it filed its Motion.
26 Defendants met and conferred with Plaintiff and are attempting to resolve the issue.

27 *Fifth*, the Southern District of California recently granted summary judgement of
28 non-infringement of the Asserted Patent with respect to Lowe’s on a different set of

1 products. *See DS Advanced Enterprises, Ltd. v. Lowe's Companies, Inc.*, SDCA-3-23-cv-
2 01335, Dkt. No. 34 (Sept. 30, 2024) (granting summary judgment of non-infringement
3 as to all claims and noting that a sanctions motion remains pending against Plaintiff).

4
5
6 Dated: October 7, 2024

Respectfully submitted,

8 By: /s/ Ryan W. Koppelman

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